Supreme Court, U. S.
FILED
JUN 11 1980
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

NO. **79-1945**

ELIA RONCKETTI and ELLEN RONCKETTI,

Petitioners,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

---

PETITIONER FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

---

ELIA RONCKETTI and ELLEN RONCKETTI, PRO SE
245 North River Street
Wilkes-Barre, Pennsylvania 18702
(717) 825-2579

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

NO.

ELIA RONCKETTI and ELLEN RONCKETTI,

Petitioners,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

---

PETITIONER FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

---

ELIA RONCKETTI and ELLEN RONCKETTI, PRO SE

245 North River Street
Wilkes-Barre, Pennsylvania 18702
(717) 825-2579

## TOPICAL INDEX


| | Page |
|---|---|
| Table of Authorities | ii |
| JURISDICTION | 2 |
| QUESTIONS PRESENTED FOR REVIEW | 2 |
| CONSTITUTIONAL PROVISIONS INVOLVED | 2 |
| STATEMENT OF THE CASE | 3 |
| REASONS WHY THE COURT SHOULD GRANT THE WRIT | 6 |
| CONCLUSION | 7 |
| EXHIBIT A Judgment of the United States Court of Appeals for the Third Circuit | |
| EXHIBIT B Letter from the U.S. Treasury Department | |

## TABLE OF AUTHORITIES


| | Page |
|---|---|
| GARDNER v. BRODERICK<br>392 U.S. 273 | 5 |
| GARRITY v. NEW JERSEY<br>385 U.S. 493 | 4-5 |
| LEFKOWITZ v. CUNNINGHAM<br>431 U.S. 801 | 5-6 |
| LEFKOWITZ v. TURLEY<br>414 U.S. 70 | 5 |
| MALLOY v. BRODERICK<br>392 U.S. 273 | 5 |
| RAPHAL v. CONRAD<br>371 F Supp 256 | 5 |
| SPEVACK v. KLEIN<br>378 U.S. 511 | 5 |
| **Constitution** | |
| U.S. Constitution<br>Fifth Amendment | 2 |

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

NO.

ELIA RONCKETTI and ELLEN RONCKETTI,

Petitioners,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

---

PETITIONER FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

The Petitioners, ELIA RONCKETTI AND ELLEN RONCKETTI respectfully pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit, entered on March 10, 1980.

The judgment of the United States Court of Appeals for the Third Circuit was issued without opinion.

## JURISDICTION

The order or judgment of the United States Court of Appeals for the Third Circuit was entered on March 10, 1980. See Exhibit A. This petition for certiorari was filed less than 90 days from the date aforesaid.

## QUESTIONS PRESENTED FOR REVIEW

1. Do the Petitioners have a Constitutional right to plead the Fifth Amendment against self-incrimination without fear of unjust and unsubstantiated penalty by the Respondent?

2. What Constitutional laws permit the Respondent to impose severe penalty and assessment on the Petitioners without substantiation or supportive evidence?

3. Does the Respondent have a right to unjustly confiscate the Petitioners' lives?

4. Why is it wrong for an individual to demand money owed to him without the demonstration of proof or substantiation but right if the individual is called the Commissioner of Internal Revenue or an agent of the Internal Revenue Service?

To permit a double standard of justice based upon the affiliation of an individual would invite tyranny and gang rule.

This double standard of justice cannot be granted by this Court.

## CONSTITUTIONAL PROVISIONS INVOLVED

Amendment 5 to the Constitution of the United States states in pertinent part:

> "No person shall be held to answer for a capital, or otherwise infamous crime, ... nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law: ..."

Clearly, the Petitioners are threatened with confiscation of their earned money without any substantiation by the Respondent that money is owed to the government, and without "due process of law."

## STATEMENT OF THE CASE

The Petitioner, ELIA RONCKETTI was investigated by the Intelligence Division after he voluntarily submitted to an audit by the Internal Revenue Service for the taxable years of 1973 and 1974. The said Petitioner received no rights or any warnings from the Respondent that his case was on the way to the Intelligence Division.

On June 8, 1978, the Petitioner, ELIA RONCKETTI received a letter from the United States Treasury Department that the investigation by the Intelligence Division may begin if the said Division found evidence "not previously considered." See Exhibit B.

On June 13, 1979, the Respondent's attorney refused to grant immunity to the Petitioner, ELIA RONCKETTI, in the United States District Court in Scranton, Pennsylvania, related to the tax year of 1975.

Fearful of possible self-incrimination and the reopening of his case by the Intelligence Division, the Petitioners filed a "Motion to Dismiss the Determination of Deficiency of the Internal Revenue Service on the Grounds that the Appellants cannot be Penalized for Exercising their Constitutional Fifth Amendment Right against Self-Incrimination" with the United States Court of Appeals for the Third Circuit; the Petitioners' Motion was denied by the said Court of Appeals.

The Petitioners are also fearful of the unsubstantiated severe penalty imposed by the Respondent if their records are not shown.

The Petitioners are caught "between the rock and the whirlpool." In Garrity vs. New Jersey, 385 U.S. 493., Police officers were accused of fixing traffic tickets. They were subjected to questioning without a grant of immunity and were told that if they refused to answer, state law provided that they were to be removed from their jobs. They answered the questions out of fear of losing their jobs and were then convicted on their testimony. The Supreme Court reversed the convictions, saying:

> "The choice given petitioners was either to forfeit their jobs or to incriminate themselves ... a choice between the rock and the whirlpool ...
> Where the choice is between the rock and the whirlpool, 'duress is inherent in deciding to 'waive' one or the other.

Other cases supporting the Petitioners' claim that they cannot be unjustly penalized for exercising their Fifth Amendment right against self-incrimination are: Malloy vs. Hogan, 378 U.S. 1 at 11., Gardner vs. Broderick, 392 U.S. 273., Lefkowitz vs. Turley, 414 U.S. 70 , Raphal vs. Conrad, 371 F Supp 256., Spevack vs. Klein, 378 U.S. 511., and Lefkowitz vs. Cunningham, 431 U.S. 801.

In Lefkowitz vs. Cunningham 431 U.S. 801, the Supreme Court said:

> "These cases settle that government cannot penalize assertion of the constitutional privilege against compelled self-incrimination by imposing sanction to compel testimony which has not been immunized. We have already rejected the notion that citizens may be forced to incriminate themselves because it serves a governmental need."

The Petitioner, ELIA RONCKETTI has fears that his case may be brought back to Intelligence

Division investigation if the final "link" of potentially incriminating evidence is found.

## REASONS WHY THE COURT SHOULD GRANT THE WRIT

The United States Court of Appeals for the Third Circuit did not give an opinion or reason why the Petitioners should be subjected to heavy unjust penalties for asserting their Fifth Amendment right.

The United States Court of Appeals gave no reasons or opinion why the Respondent can impose heavy penalties upon the Petitioners without substantiation or proof of the Respondent's assessment figures or allegations.

To permit the Respondent to demand money from the Petitioners owed to the government without substantiation demonstrates a complete disregard of the Petitioners' lives; earned money is an inextricable part of the Petitioners' lives.

## CONCLUSION

The Petitioner, ELIA RONCKETTI is fearful that his private records demanded by the Respondent may incriminate the said Petitioner and may reopen the investigation by the Intelligence Division, if the final "link" is found. Because of this factor, the Petitioners pleaded the Fifth Amendment against self-incrimination.

The Petitioner, ELIA RONCKETTI has not received immunity from criminal prosecution.

The said Petitioner is also fearful that if his private records are not shown, he will be faced with a destructive, ruineous assessment arbitrarily made by the Respondent even though no substantiation was made by the Respondent.

To permit the United States Court of Appeals for the Third Circuit to recognize without substantiation the Respondent's ruineous assessment on the Petitioners is to permit unjust confiscation of the Petitioners' lives.

The Petitioners pray that this Court will accept this Petition for Writ of Certiorari.

Respectfully submitted,

Elia Ronckett

ELIA RONCKETTI, PRO SE

Ellen Ronckett

ELLEN RONCKETTI, PRO SE
245 NORTH RIVER STREET
WILKES-BARRE, PA. 18702

**Exhibit A**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 79-2667-8 March 7, 1980

ELIA RONCKETTI and ELLEN RONCKETTI,
Appellants

vs.

COMMISSIONER OF INTERNAL REVENUE
(Tax Court Docket No. 6620-79)
(For appeal filed 10-15-79)

No. 79-2667

ELIA RONCKETTI AND ELLEN RONCKETTI,
Appellants

vs.

COMMISSIONER OF INTERNAL REVENUE
(Tax Court Docket No. 6620-79)
(For appeal filed 11-7-79)

No. 79-2668

Present: ADAMS and GARTH, Circuit Judges.

1. Motion by appellants in No. 79-2667 to alter judgment of February 19, 1980.
2. Copy of this Court's order in No. 79-2667 dated February 19, 1980, sent by the undersigned for the Court's information.
3. Motion by appellants in Nos. 79-2667 and 79-2668 to alter judgment of February 19, 1980,
4. Copy of this Court's order dated February 19, 1980, sent by the undersigned for the Court's information, in Nos. 79-2667/8,

5. Motion by appellants in No. 79-2668 to dismiss the determination of deficiency of the Internal Revenue Service on the grounds that the appellants cannot be penalized for exercising their constitutional Fifth Amendment right against self-incrimination,
6. Copy of this Court's order in No. 79-2668 dated February 19, 1980, sent by the undersigned for the Court's information,
7. Letter dated March 1, 1980 from Mr. Elia Roncketti in reply to the Clerk's letter dated February 28, 1980, confirming that he wishes the motions to be considered as request for reconsideration of this Court's orders dated February 19, 1980,

in the above-entitled cases.

Respectfully,
Clerk

enc.
fm

---

*The foregoing Motion is/are denied*

*By the Court,*

*Dated: March 10, 1980*

_____
Judge

Exhibit B

Department of the Treasury
600 Arch St., Philadelphia, Pa. 19106
Person to Contact: Leo F. Zynel
Telephone Number: Wilkes-Barre (717) 826-6251
Refer Reply to: I:08:LFZ
Date: JUN 8 1978

Internal Revenue Service
District
Director

Mr. Elia Roncketti
245 N. River Street
Wilkes-Barre, Pennsylvania 18702

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Mr. Roncketti:

This letter is to inform you that the Intelligence Division is no longer participating in the investigation of your income tax liability for the years 1973 and 1974.

This matter has been referred to the Audit Division for further consideration.

This does not preclude re-entry by the Intelligence Division if further examination discloses indications of fraud not previously considered.

Sincerely yours,

James T. Rideoutte

cc to Leo M. McCormack, Esquire
420 Miller Building
Scranton, Pennsylvania 18503